

Union Calendar No. 92

95TH CONGRESS
1ST SESSION

H. R. 5840

[Report No. 95-190]

IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 1977

Mr. ZABLOCKI (for himself, Mr. BINGHAM, Mr. ROSENTHAL, Mr. FINDLEY, Mr. FASCELL, Mr. DIGGS, Mr. NIX, Mr. FRASER, Mr. WOLFF, Mr. SOLARZ, Mr. WINN, Mr. STUDDS, Mr. LAGOMARSINO, Mr. GILMAN, Mr. WHALEN, Mr. PEASE, Mr. IRELAND, Mr. CAVANAUGH, Mrs. MEYNER, and Mr. BURKE of Florida) introduced the following bill; which was referred to the Committee on International Relations

APRIL 6, 1977

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

A BILL

To amend the Export Administration Act of 1969 in order to extend the authorities of that Act and improve the administration of export controls under that Act, and to strengthen the antiboycott provisions of that Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Export
5 Administration Amendments of 1977".

1 TITLE I—EXPORT ADMINISTRATION

2 IMPROVEMENTS AND EXTENSION

3 EXTENSION OF EXPORT ADMINISTRATION ACT

4 SEC. 101. Section 14 of the Export Administration Act
5 of 1969 is amended by striking out “September 30, 1976”
6 and inserting in lieu thereof “September 30, 1979”.

7 AUTHORIZATION OF APPROPRIATIONS

8 SEC. 102. The Export Administration Act of 1969 is
9 amended by inserting after section 12 the following new
10 section 13 and redesignating existing sections 13 and 14
11 as sections 14 and 15, respectively:

12 “AUTHORIZATION OF APPROPRIATIONS

13 “SEC. 13. (a) Notwithstanding any other provision of
14 law, no appropriation shall be made under any law to the
15 Department of Commerce for expenses to carry out the
16 purposes of this Act for any fiscal year commencing on or
17 after October 1, 1977, unless previously and specifically
18 authorized by legislation.

19 “(b) There is hereby authorized to be appropriated to
20 the Department of Commerce \$14,033,000 (and such addi-
21 tional amounts as may be necessary for increases in salary,
22 pay, retirement, other employee benefits authorized by law,
23 and other nondiscretionary costs) for fiscal years 1978 and
24 1979 to carry out the purposes of this Act.”.

1 CONTROL OF EXPORTS FOR NATIONAL SECURITY PURPOSES;
2 FOREIGN AVAILABILITY

3 SEC. 103. (a) Section 4 (b) of the Export Administra-
4 tion Act of 1969 is amended—

5 (1) by striking out the third sentence of para-
6 graph (1) ;

7 (2) by striking out paragraphs (2) through (4) ;
8 and

9 (3) by inserting the following new paragraph (2)
10 immediately after paragraph (1) :

11 “(2) (A) In administering export controls for national
12 security purposes as prescribed in section 3 (2) (C) of this
13 Act, United States policy toward individual countries shall
14 not be determined exclusively on the basis of a country’s
15 Communist or non-Communist status but shall take into
16 account such factors as the country’s present and potential
17 relationship to the United States, its present and potential
18 relationship to countries friendly or hostile to the United
19 States, its ability and willingness to control retransfers of
20 United States exports in accordance with United States
21 policy, and such other factors as the President may deem
22 appropriate. The President shall periodically review United
23 States policy toward individual countries to determine
24 whether such policy is appropriate in light of the factors

1 specified in the preceding sentence. The results of such re-
2 view, together with the justification for United States policy
3 in light of such factors, shall be reported to Congress not
4 later than December 31, 1978, in the semiannual report
5 of the Secretary of Commerce required by section 10 of this
6 Act, and in every second such report thereafter.

7 “(B) Rules and regulations under this subsection may
8 provide for denial of any request or application for author-
9 ity to export articles, materials, or supplies, including tech-
10 nical data or any other information, from the United States,
11 its territories and possessions, to any nation or combination
12 of nations threatening the national security of the United
13 States if the President determines that their export would
14 prove detrimental to the national security of the United
15 States. The President shall not impose export controls for
16 national security purposes on the export from the United
17 States of articles, materials, or supplies, including technical
18 data or other information, which he determines are avail-
19 able without restriction from sources outside the United
20 States in significant quantities and comparable in quality to
21 those produced in the United States, unless the President
22 determines that adequate evidence has been presented to
23 him demonstrating that the absence of such controls would
24 prove detrimental to the national security of the United
25 States. The nature of such evidence shall be included in the

1 semiannual report required by section 10 of this Act. Where,
2 in accordance with this paragraph, export controls are im-
3 posed for national security purposes notwithstanding foreign
4 availability, the President shall take steps to initiate nego-
5 tiations with the governments of the appropriate foreign
6 countries for the purpose of eliminating such availability.”.

7 (b) (1) Section 4 (h) of the Export Administration
8 Act of 1969 is amended by striking out “controlled country”
9 in the first sentence of paragraph (1) and in the second
10 sentence of paragraph (2) and inserting in lieu thereof
11 “country to which exports are controlled for national security
12 purposes”.

13 (2) Section 4 (h) (2) (A) of such Act is amended by
14 striking out “controlled” and inserting in lieu thereof “such”.

15 (3) Section 4 (h) (4) of such Act is amended—

16 (A) by inserting “and” at the end of subparagraph
17 (A) ; and

18 (B) by striking out the semicolon at the end of
19 subparagraph (B) thereof and all that follows the semi-
20 colon and inserting in lieu thereof a period.

21 (4) The amendments made by this subsection shall be-
22 come effective upon the expiration of ninety days after the
23 receipt by the Congress of the first report required by the
24 amendment made by subsection (a) (3) of this section.

25 (c) Section 4 (h) of such Act is amended—

1 (1) in paragraph (1) —

2 (A) in the first sentence by striking out
3 “significantly increase the military capability of
4 such country” and inserting in lieu thereof “make
5 a significant contribution to the military potential of
6 such country”; and

7 (B) in the second sentence by striking out
8 “significantly increase the military capability of such
9 country” and inserting in lieu thereof “make a
10 significant contribution, which would prove detri-
11 mental to the national security of the United States,
12 to the military potential of any such country”; and

13 (2) in paragraph (2) (A), by striking out “signifi-
14 cantly increase the military capability of such country”
15 and inserting in lieu thereof “make a significant con-
16 tribution, which would prove detrimental to the national
17 security of the United States, to the military potential
18 of such country or any other country”.

19 (d) Section 6(b) of such Act is amended by striking
20 out “Communist-dominated nation” and inserting in lieu
21 thereof “country to which exports are restricted for na-
22 tional security or foreign policy purposes”.

23 EXEMPTION FOR CERTAIN AGRICULTURAL COMMODITIES
24 FROM CERTAIN EXPORT LIMITATIONS

25 SEC. 104. Section 4(f) of the Export Administration
26 Act of 1969 is amended—

1 (1) by redesignating such section as section 4 (f)
2 (1) ; and

3 (2) by adding at the end thereof the following
4 new paragraph:

5 “(2) (A) Upon approval of the Secretary of Com-
6 merce, in consultation with the Secretary of Agriculture,
7 agricultural commodities purchased by or for use in a foreign
8 country may remain in the United States for export at a
9 later date free from any quantitative limitations on export
10 which may be imposed pursuant to section 3 (2) (A) of
11 this Act subsequent to such approval. The Secretary of
12 Commerce may only grant such approval if he receives
13 adequate assurance and, in conjunction with the Secretary
14 of Agriculture, finds that such commodities will eventually
15 be exported and that storage of such commodities in the
16 United States will not unduly limit the space available for
17 storage of domestically owned commodities.

18 “(B) The Secretary of Commerce shall grant or deny
19 approval under subparagraph (A) within 30 days after re-
20 ceiving an application for such approval. Unless the Sec-
21 retary denies approval within 30 days, approval shall be
22 deemed to be granted and the applicant shall be notified
23 that approval has been granted.

24 “(C) The Secretary of Commerce is authorized to issue
25 such rules and regulations as may be necessary to imple-
26 ment this paragraph.”.

CONGRESSIONAL REVIEW OF EXPORT CONTROLS ON

AGRICULTURAL COMMODITIES

SEC. 105. Section 4 (f) of the Export Administration Act of 1969, as amended by section 104 of this Act, is further amended by adding at the end thereof the following new paragraph:

7 “(3) If the authority conferred by this section is exer-
8 cised to prohibit or curtail the exportation of any agricul-
9 tural commodity in order to effectuate the policies set forth
10 in clause (B) of paragraph (2) of section 3 of this Act, the
11 President shall immediately report such prohibition or cur-
12 tailment to the Congress, setting forth the reasons therefor in
13 detail. If the Congress, within 30 days after the date of its
14 receipt of such report, adopts a concurrent resolution disap-
15 proving such prohibition or curtailment, then such prohibi-
16 tion or curtailment shall cease to be effective with the adop-
17 tion of such resolution. In the computation of such 30-day
18 period, there shall be excluded the days on which either
19 House is not in session because of an adjournment of more
20 than 3 days to a day certain or because of an adjournment of
21 the Congress sine die.”.

PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS

SEC. 106. Section 4 (g) of the Export Administration Act of 1969 is amended to read as follows:

“(g) (1) It is the intent of Congress that any export

1 license application required under this Act shall be approved
2 or disapproved within 90 days of its receipt. Upon the ex-
3 piration of the 90-day period beginning on the date of its
4 receipt, any export license application required under this
5 Act which has not been approved or disapproved shall be
6 deemed to be approved and the license shall be issued unless
7 the Secretary of Commerce or other official exercising
8 authority under this Act finds that additional time is re-
9 quired and notifies the applicant in writing of the specific
10 circumstances requiring such additional time and the esti-
11 mated date when the decision will be made.

12 “(2) (A) With respect to any export license applica-
13 tion not finally approved or disapproved within 90 days of
14 its receipt as provided in paragraph (1) of this subsection,
15 the applicant shall, to the maximum extent consistent with
16 the national security of the United States, be specifically in-
17 formed in writing of any substantial questions raised and
18 negative considerations or recommendations made by any
19 agency or department of the Government with respect to such
20 license application, and shall be accorded an opportunity to
21 respond to such questions, considerations, or recommenda-
22 tions in writing prior to final approval or disapproval by the
23 Secretary of Commerce or other official exercising authority
24 under this Act. In making such final approval or disapproval,
25 the Secretary of Commerce or other official exercising author-

1 ity under this Act shall take fully into account the applicant's
2 response.

3 “(B) Whenever the Secretary determines that it is
4 necessary to refer an export license application to any inter-
5 agency review process for approval, he shall first, if the
6 applicant so requests, provide the applicant with an oppor-
7 tunity to review any documentation to be submitted to such
8 process for the purpose of describing the export in question,
9 in order to determine whether such documentation accurately
10 describes the proposed export.

11 “(3) In any denial of an export license application,
12 the applicant shall be informed in writing of the specific
13 statutory basis for such denial.”.

14 EXPORTS OF TECHNICAL INFORMATION

15 SEC. 107. Section 4 of the Export Administration Act
16 of 1969 is amended by adding at the end thereof the follow-
17 ing new subsection:

18 “(j) The Secretary of Commerce shall conduct a study
19 of the problem of the export, by agreements for scientific or
20 technical cooperation or exchange entered into by any
21 United States person (including any college, university, or
22 other educational institution) and by publications or any
23 other means of public dissemination, of technical data or
24 other information from the United States, the export of

1 which might prove detrimental to the national security or
2 foreign policy of the United States. Not later than 12
3 months after the enactment of the subsection, the Secretary
4 shall report to the Congress his assessment of the impact of
5 the export of such technical data or other information by
6 such means on the national security and foreign policy of
7 the United States and his recommendations for monitoring
8 such exports without impairing freedom of speech, freedom
9 of press, or the freedom of scientific exchange. Such report
10 may be included in the semiannual report required by sec-
11 tion 10 of this Act.”.

12 CERTAIN PETROLEUM EXPORTS

13 SEC. 108. Section 4 of the Export Administration Act
14 of 1969, as amended by section 107 of this Act, is further
15 amended by adding at the end thereof the following new
16 subsection:

17 “(k) Petroleum products refined in United States For-
18 eign-Trade Zones, or in the United States Territory of
19 Guam, from foreign crude oil shall be excluded from any
20 quantitative restrictions imposed pursuant to section 3 (2)
21 (A) of this Act, except that, if the Secretary of Commerce
22 finds that a product is in short supply, the Secretary of
23 Commerce may issue such rules and regulations as may be
24 necessary to limit exports.”.

1 EXPORT OF HORSES

2 SEC. 109. Section 4 of the Export Administration Act
3 of 1969, as amended by sections 107 and 108 of this Act,
4 is further amended by adding at the end thereof the follow-
5 ing new subsection:

6 “(1) (1) Notwithstanding any other provision of this
7 Act, no horse may be exported by sea from the United
8 States, its territories and possessions, unless such horse is
9 part of a consignment of horses with respect to which a
10 waiver has been granted under paragraph (2) of this sub-
11 section.

12 “(2) The Secretary of Commerce, in consultation with
13 the Secretary of Agriculture, may issue rules and regula-
14 tions providing for the granting of waivers permitting the
15 export by sea of a specified consignment of horses, if the
16 Secretary of Commerce, in consultation with the Secretary
17 of Agriculture, determines that no horse in that consignment
18 is being exported for purposes of slaughter.”.

19 TECHNICAL ADVISORY COMMITTEES

SEC. 110. (a) Section 5(c) (1) of the Export Admin-
istration Act of 1969 is amended by striking out "two" in
the last sentence thereof and inserting in lieu thereof "four".

(b) The second sentence of section 5(c)(2) of such Act is amended to read as follows: "Such committees, where they have expertise in such matters, shall be consulted with

1 respect to questions involving (A) technical matters, (B)
 2 worldwide availability and actual utilization of production
 3 technology, (C) licensing procedures which affect the level
 4 of export controls applicable to any articles, materials, and
 5 supplies, including technical data or other information, and
 6 (D) exports subject to multilateral controls in which the
 7 United States participates including proposed revisions of
 8 any such multilateral controls.”.

9 (c) Section 5(c) (2) of such Act is further amended
 10 by striking out the third sentence and inserting in lieu thereof
 11 the following: “The Secretary shall include in each semi-
 12 annual report required by section 10 of this Act an account-
 13 ing of the consultations undertaken pursuant to this
 14 paragraph, the use made of the advice rendered by the
 15 technical advisory committees pursuant to this paragraph,
 16 and the contributions of the technical advisory committees
 17 to carrying out the policies of this Act.”.

18 PENALTIES FOR VIOLATIONS

19 SEC. 111. (a) Section 6(a) of the Export Administra-
 20 tion Act of 1969 is amended—

21 (1) in the first sentence, by striking out “\$10,000”
 22 and inserting in lieu thereof “\$25,000”; and

23 (2) in the second sentence, by striking out
 24 “\$20,000” and inserting in lieu thereof “\$50,000”.

1 (b) Section 6 (b) of such Act is amended by striking
2 out "\$20,000" and inserting in lieu thereof "\$50,000".

3 (c) Section 6 (c) of such Act is amended by striking
4 out "\$1,000" and inserting in lieu thereof "\$10,000".

5 (d) Section 6 (d) of such Act is amended by adding
6 at the end thereof the following new sentence: "In addition,
7 the payment of any penalty imposed under subsection (c)
8 may be deferred or suspended in whole or in part for a
9 period of time no longer than any probation period (which
10 may exceed one year) that may be imposed upon such
11 person. Such a deferral or suspension shall not operate as a
12 bar to the collection of the penalty in the event that the
13 conditions of the suspension, deferral, or probation are not
14 fulfilled."

15 AVAILABILITY OF INFORMATION TO CONGRESS

16 SEC. 112. (a) Section 7 (c) of the Export Administra-
17 tion Act of 1969 is amended by adding at the end thereof
18 the following new sentences: "Nothing in this Act shall be
19 construed as authorizing the withholding of information from
20 Congress, and any information obtained under this Act,
21 including any report or license application required under
22 section 4 (b), shall be made available upon request to any
23 committee or subcommittee of Congress of appropriate juris-
24 diction. No such committee or subcommittee shall disclose

1 any information obtained under this Act which is submitted
2 on a confidential basis unless the full committee determines
3 that the withholding thereof is contrary to the national
4 interest.”.

5 (b) Section 4(c) (1) of such Act is amended by in-
6 serting immediately before the period at the end of the last
7 sentence thereof “and in the last two sentences of section
8 7 (c) of this Act”.

9 SIMPLIFICATION OF EXPORT REGULATIONS AND LISTS

10 SEC. 113. Section 7 of the Export Administration Act
11 of 1969 is amended by adding at the end thereof the follow-
12 ing new subsection:

13 “(e) The Secretary of Commerce, in consultation with
14 appropriate United States Government departments and
15 agencies and with appropriate technical advisory commit-
16 tees established under section 5 (c), shall review the rules
17 and regulations issued under this Act and the lists of articles,
18 materials, and supplies which are subject to export controls
19 in order to determine how compliance with the provisions of
20 this Act can be facilitated by simplifying such rules and reg-
21 ulations, by simplifying or clarifying such lists, or by any
22 other means. Not later than one year after the enactment
23 of this subsection, the Secretary of Commerce shall report
24 to Congress on the actions taken on the basis of such review

1 to simplify such rules and regulations. Such report may be
2 included in the semiannual report required by section 10 of
3 this Act.”.

4 TERRORISM

5 SEC. 114. Section 3 of the Export Administration Act
6 of 1969 is amended by adding at the end thereof the
7 following new paragraph:

8 “(8) It is the policy of the United States to use export
9 controls to encourage other countries to take immediate steps
10 to prevent the use of their territory or resources to aid,
11 encourage, or give sanctuary to those persons involved in
12 directing, supporting, or participating in acts of international
13 terrorism. To achieve this objective, the President shall
14 make every reasonable effort to secure the removal or reduc-
15 tion of such assistance to international terrorists through
16 international cooperation and agreement before resorting to
17 the imposition of export controls.”.

18 SEMIANNUAL REPORTS

19 SEC. 115. (a) Section 10 of the Export Administration
20 Act of 1969 is amended by adding at the end thereof the
21 following new subsection:

22 “(c) Each semiannual report shall include an accounting
23 of—

24 “(1) any organizational and procedural changes
25 instituted, any reviews undertaken, and any means used

1 to keep the business sector of the Nation informed, pur-
 2 suant to section 4 (a) of this Act;

3 “(2) any changes in the exercise of the authorities
 4 of section 4 (b) of this Act;

5 “(3) any delegations of authority under section
 6 4 (e) of this Act;

7 “(4) the disposition of export license applications
 8 pursuant to sections 4 (g) and (h) of this Act;

9 “(5) consultations undertaken with technical ad-
 10 visory committees pursuant to section 5 (c) of this Act;

11 “(6) violations of the provisions of this Act and
 12 penalties imposed pursuant to section 6 of this Act; and

13 “(7) a description of actions taken by the Presi-
 14 dent and the Secretary of Commerce to effect the poli-
 15 cies set forth in section 3 (5) of this Act.”.

16 (b) (1) The section heading of such section 10 is
 17 amended by striking out “QUARTERLY”.

18 (2) Subsection (b) of such section is amended—

19 (A) by striking out “quarterly” each time it ap-
 20 pears; and

21 (B) by striking out “second” in the first sentence
 22 of paragraph (1).

23 SPECIAL REPORT ON MULTILATERAL EXPORT CONTROLS

24 SEC. 116. Not later than 12 months after the enactment
 25 of this section, the President shall submit to the Congress a

1 special report on multilateral export controls in which the
2 United States participates pursuant to the Export Adminis-
3 tration Act of 1969 and pursuant to the Mutual Defense
4 Assistance Control Act of 1951. The purpose of such special
5 report shall be to assess the effectiveness of such multilateral
6 export controls and to formulate specific proposals for
7 increasing the effectiveness of such controls. That special
8 report shall include—

9 (1) the current list of commodities controlled for
10 export by agreement of the group known as the Coordi-
11 nating Committee of the Consultative Group (hereafter
12 in this section referred to as the “Committee”) and an
13 analysis of the process of reviewing such list and of the
14 changes which result from such review;

15 (2) data on and analysis of requests for exceptions
16 to such list;

17 (3) a description and an analysis of the process by
18 which decisions are made by the Committee on whether
19 or not to grant such requests;

20 (4) an analysis of the uniformity of interpretation
21 and enforcement by the participating countries of the
22 export controls agreed to by the Committee (including
23 controls over the re-export of such commodities from
24 countries not participating in the Committee), and in-
25 formation on each case where such participating coun-

1 tries have acted contrary to the United States interpreta-
2 tion of the policy of the Committee, including United
3 States representations to such countries and the response
4 of such countries;

5 (5) an analysis of the problem of exports of ad-
6 vanced technology by countries not participating in the
7 Committee, including such exports by subsidiaries or
8 affiliates of United States businesses in such countries;

9 (6) an analysis of the effectiveness of any pro-
10 cedures employed, in cases in which an exception for
11 a listed commodity is granted by the Committee, to de-
12 termine whether there has been compliance with any
13 conditions on the use of the excepted commodity which
14 were a basis for the exception; and

15 (7) detailed recommendations for improving,
16 through formalization or other means, the effectiveness
17 of multilateral export controls, including specific recom-
18 mendations for the development of more precise criteria
19 and procedures for collective export decisions and for
20 the development of more detailed and formal enforce-
21 ment mechanisms to assure more uniform interpreta-
22 tion of and compliance with such criteria, procedures,
23 and decisions by all countries participating in such
24 multilateral export controls.

1 REVIEW OF UNILATERAL AND MULTILATERAL EXPORT
2 CONTROL LISTS

3 SEC. 117. The Secretary of Commerce and the Secre-
4 tary of State, in cooperation with appropriate United States
5 Government departments and agencies and the appropriate
6 technical advisory committees established pursuant to the
7 Export Administration Act of 1969, shall undertake an in-
8 vestigation to determine whether United States unilateral
9 controls or multilateral controls in which the United States
10 participates should be removed, modified, or added with
11 respect to particular articles, materials, and supplies, includ-
12 ing technical data and other information, in order to protect
13 the national security of the United States. Such investigation
14 shall take into account such factors as the availability of such
15 articles, materials, and supplies from other nations and the
16 degree to which the availability of the same from the United
17 States or from any country with which the United States
18 participates in multilateral controls would make a significant
19 contribution to the military potential of any country threat-
20 ening or potentially threatening the national security of the
21 United States. The results of such investigation shall be re-
22 ported to the Congress not later than December 31, 1978.

23 TECHNOLOGY EXPORT STUDY

24 SEC. 118. (a) The President, acting through the Sec-
25 retary of Commerce, the Secretary of Labor, and the Inter-

1 national Trade Commission, shall conduct a study of the
2 domestic economic impact of exports from the United States
3 of industrial technology whose export requires a license un-
4 der the Export Administration Act of 1969. Such study
5 shall include an evaluation of current exporting patterns on
6 the international competitive position of the United States in
7 advanced industrial technology fields and an evaluation of
8 the present and future effect of these exports on domestic
9 employment.

10 (b) The results of the study conducted pursuant to sub-
11 section (a) will be reported to the Congress within one
12 year after the date of enactment of this Act.

13 TITLE II—FOREIGN BOYCOTTS

14 PROHIBITION ON COMPLIANCE WITH FOREIGN BOYCOTTS

15 SEC. 201. (a) The Export Administration Act of 1969
16 is amended by redesignating section 4A as section 4B and
17 by inserting after section 4 the following new section:

18 “FOREIGN BOYCOTTS

19 “SEC. 4A. (a) (1) For the purpose of implementing the
20 policies set forth in sections 3 (5) (A) and (B), the Presi-
21 dent shall issue rules and regulations prohibiting any United
22 States person from willfully taking or agreeing to take any of
23 the following actions to comply with, further, or support any
24 boycott fostered or imposed by a foreign country against
25 a country which is friendly to the United States and

1 which is not itself the object of any form of embargo by the
2 United States, if such action is taken or agreed to be taken
3 pursuant to an agreement with, a requirement of, or a re-
4 quest from or on behalf of the boycotting country:

5 “(A) Refraining from doing business with or in
6 the boycotted country, with any business concern orga-
7 nized under the laws of the boycotted country, or with
8 any national or resident of the boycotted country. The
9 absence of a business relationship with or in the boy-
10 cotted country, with any business concern organized
11 under the laws of the boycotted country, or with any
12 national or resident of the boycotted country, does not
13 alone establish a violation of rules and regulations issued
14 to carry out this subparagraph.

15 “(B) Refraining from doing business with any per-
16 son (other than the boycotted country, any business
17 concern organized under the laws of the boycotted
18 country, or any national or resident of the boycotted
19 country). The absence of a business relationship with
20 a person does not alone establish a violation of rules and
21 regulations issued to carry out this subparagraph.

22 “(C) Refraining from employing or otherwise dis-
23 criminating against any United States person on the
24 basis of race, religion, sex, or national origin.

25 “(D) Furnishing information with respect to the

1 race, religion, sex, or national origin of any other
2 United States person.

3 “(E) Furnishing information about whether any
4 person has, has had, or proposes to have any business
5 relationship (including a relationship by way of sale,
6 purchase, legal or commercial representation, shipping
7 or other transport, insurance, investment, or supply)
8 with or in the boycotted country, with any business
9 concern organized under the laws of the boycotted coun-
10 try, with any national or resident of the boycotted
11 country, or with any other person which is known or
12 believed to be restricted from having any business rela-
13 tionship with or in the boycotting country.

14 “(F) Furnishing information about whether any
15 person is a member of, has made contributions to, or
16 is otherwise associated with or involved in the activi-
17 ties of, any charitable or fraternal organization which
18 supports the boycotted country.

19 “(G) Paying, honoring, advising, confirming, proc-
20 essing, or otherwise implementing a letter of credit
21 which contains any condition or requirement compliance
22 with which is prohibited by rules and regulations issued
23 pursuant to this paragraph.

24 “(H) Using a foreign person, including a subsidi-

1 ary or affiliate, in order to circumvent the rules and
2 regulations issued pursuant to this paragraph.

3 “(2) Rules and regulations issued pursuant to para-
4 graph (1) shall provide exceptions for—

5 “(A) compliance with requirements (i) prohibit-
6 ing the import of goods or services from the boycotted
7 country or of goods produced, or services provided, by
8 any business concern organized under the laws of the
9 boycotted country or by nationals or residents of the
10 boycotted country, or (ii) prohibiting the shipment of
11 goods to the boycotting country on a carrier of the boy-
12 cotted country or by a route other than that prescribed
13 by the boycotting country or the recipient of the
14 shipment;

15 “(B) compliance with import and shipping docu-
16 ment requirements with respect to a positive designation
17 of country of origin (except that, during the 1-year
18 period beginning on the date on which rules and regu-
19 lations issued pursuant to paragraph (1) first become
20 effective, a negative designation of country of origin
21 may be furnished), the name and nationality of the
22 carrier and route of shipment, and the name of the sup-
23 plier of the shipment;

24 “(C) compliance with export requirements of the
25 boycotting country relating to shipments or transship-

1 ments of exported goods to the boycotted country, to
2 any business concern organized under the laws of the
3 boycotted country, or to any national or resident of the
4 boycotted country;

5 “(D) compliance with the designation by the boy-
6 cotting country, by a business concern organized under
7 the laws of the boycotting country, or by a national
8 or resident of the boycotting country, of a specific per-
9 son to be involved in a particular aspect of a trans-
10 action, including the specific person who is to act as
11 seller, manufacturer, subcontractor, insurance carrier,
12 financial institution, or freight forwarder, except that
13 this exception shall not apply in any case in which
14 the United States person has actual knowledge that
15 the sole purpose of the designation is to implement
16 the boycott; and

17 “(E) the refusal of a United States person to pay,
18 honor, advise, confirm, process, or otherwise imple-
19 ment a letter of credit in the event of the failure of the
20 beneficiary of the letter to comply with the conditions or
21 requirements of the letter.

22 “(3) The President may grant exemptions from any
23 requirement of the rules and regulations issued pursuant
24 to paragraph (1), other than rules and regulations issued
25 to carry out paragraph (1) (H), in order to permit com-

1 pliance with a specific provision of the laws of a foreign
2 country which requires the taking of an action in that
3 country which would, in the absence of such an exemption,
4 be prohibited by such rules and regulations.

5 “(4) (A) Nothing in this subsection may be con-
6 strued to supersede or limit the operation of the antitrust
7 laws of the United States.

8 “(B) The rules and regulations issued pursuant to
9 paragraph (1) shall preempt and supersede any provision
10 of law or regulation of any State or political subdivision
11 thereof which is directed to compliance with, furtherance
12 of, or support for any boycott fostered or imposed by a
13 foreign country against another foreign country; and no
14 State or political subdivision thereof may establish, con-
15 tinue in effect, or enforce any such provision of law or
16 regulation.

17 “(5) Rules and regulations pursuant to this subsection
18 and section 11 (2) shall be issued and become effective not
19 later than 120 days after the date of enactment of this sec-
20 tion, except that rules and regulations issued pursuant to
21 this subsection shall provide a grace period during which
22 the rules and regulations issued pursuant to paragraph (1)
23 will not apply to actions taken pursuant to a written con-
24 tract or other agreement entered into on or before April 1,
25 1977. Such grace period shall end on December 31, 1978;

1 except that the Secretary of Commerce may extend the grace
2 period for not to exceed 1 additional year in any case in
3 which the Secretary finds that good faith efforts are being
4 made to renegotiate the contract or agreement in order to
5 eliminate the provisions which are inconsistent with the rules
6 and regulations issued pursuant to paragraph (1).

7 “(b) (1) In addition to the rules and regulations issued
8 pursuant to subsection (a) of this section, rules and reg-
9 ulations issued under section 4(b) of this Act shall imple-
10 ment the policies set forth in section 3 (5).

11 “(2) Such rules and regulations shall require that any
12 United States person receiving a request for the taking of
13 any action prohibited by the rules and regulations issued
14 pursuant to subsection (a) (1) shall report that fact to the
15 Secretary of Commerce, together with such other information
16 concerning the request as the Secretary may deem appropri-
17 ate for the effective enforcement of those rules and regula-
18 tions. In addition, such rules and regulations may also require
19 that any United States person receiving a request for the
20 taking of any other action referred to in section 3 (5) but not
21 prohibited under subsection (a) (1) shall report that fact
22 to the Secretary of Commerce, together with such other
23 information concerning the request as the Secretary may
24 require for such action as the Secretary may deem appro-
25 priate for carrying out the policies of that section. Any

1 person reporting a request pursuant to either of the two
2 preceding sentences shall also report to the Secretary of
3 Commerce whether he intends to comply and whether he
4 has complied with such request. Any report filed pursuant
5 to this paragraph after the date of enactment of this sec-
6 tion shall be made available promptly for public inspec-
7 tion and copying, except that information regarding the
8 quality, description, and value of any articles, materials, and
9 supplies, including technical data and other information, to
10 which such report relates and the identity of any party
11 to any business transaction to which such report relates
12 (including the identity of the United States person filing
13 such report unless a charging letter or other document
14 has been issued initiating proceedings against such per-
15 son), shall be kept confidential if the Secretary determines
16 that disclosure thereof would place the United States person
17 involved at a competitive disadvantage. The Secretary of
18 Commerce shall periodically transmit summaries of the
19 information contained in such reports to the Secretary of
20 State for such action as the Secretary of State, in con-
21 sultation with the Secretary of Commerce, may deem appro-
22 priate for carrying out the policies set forth in section 3 (5)
23 of this Act.”.

24 (b) Section 4 (b) (1) of such Act is amended by strik-
25 ing out the next to the last sentence.

1 (c) Section 7 (c) of such Act is amended by striking
2 out "No" and inserting in lieu thereof "Except as otherwise
3 provided by the fourth sentence of section 4A (b) (2)
4 and by section 6 (c) (2) (C) of this Act, no".

5 STATEMENT OF POLICY

6 SEC. 202. (a) Section 3 (5) (A) of the Export Admin-
7 istration Act of 1969 is amended by inserting immediately
8 after "United States" the following: "or against any United
9 States person".

10 (b) Section 3 (5) of such Act is amended by striking
11 out "(B)" and all that follows through "(C)" and inserting
12 in lieu thereof the following: "(B) to discourage and, in
13 specified cases, to prohibit United States persons engaged
14 in the export of articles, materials, supplies, or informa-
15 tion from taking or agreeing to take actions to comply
16 with, further, or support boycotts fostered or imposed by
17 any foreign country against a country friendly to the
18 United States or against any United States person, (C)
19 to discourage the use of negative certificates of origin (and
20 accordingly the President should negotiate with other coun-
21 tries for the purpose of eliminating such practice), and
22 (D)".

23 ENFORCEMENT

24 SEC. 203. (a) Section 6 (c) of the Export Administra-
25 tion Act of 1969 is amended—

1 (A) by redesignating such section as section 6 (c)
2 (1) ; and

3 (B) by adding at the end thereof the following
4 new paragraph:

5 “(2) (A) The authority of this Act to suspend or re-
6 voke the authority of any United States person to export
7 articles, materials, supplies, or technical data or other infor-
8 mation, from the United States, its territories or possessions,
9 may be used with respect to any violation of the rules and
10 regulations issued pursuant to section 4A (a) of this Act.

11 “(B) Any administrative sanction (including any civil
12 penalty or any suspension or revocation of authority to
13 export) imposed under this Act for a violation of the rules
14 and regulations issued pursuant to section 4A (a) of this
15 Act may be imposed only after notice and opportunity for
16 an agency hearing on the record in accordance with sec-
17 tions 554 through 557 of title 5, United States Code.

18 “(C) Any charging letter or other document initiating
19 proceedings for the imposition of administrative sanctions
20 for violations of the rules and regulations issued pursuant
21 to section 4A (a) of this Act shall be made available for
22 public inspection and copying.”.

23 (b) Section 8 of such Act is amended by striking out
24 “The” and inserting in lieu thereof “Except as provided in
25 section 6 (c) (2), the”.

DEFINITIONS

SEC. 204. Section 11 of the Export Administration Act of 1969 is amended to read as follows:

“DEFINITIONS

“SEC. 11. As used in this Act—

“(1) the term ‘person’ includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof; and

“(2) the term ‘United States person’ includes any United States resident or national, any domestic concern (including any subsidiary or affiliate of any foreign concern with respect to its activities in the United States), and, with respect to its activities which affect the foreign commerce of the United States, any foreign subsidiary or affiliate of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.”.

A BILL

To amend the Export Administration Act of 1969 in order to extend the authorities of that Act and improve the administration of export controls under that Act, and to strengthen the antiboycott provisions of that Act.

By Mr. ZABLOCKI, Mr. BINGHAM, Mr. ROSENTHAL, Mr. FINDLEY, Mr. FASCELL, Mr. DIGGS, Mr. NIX, Mr. FRASER, Mr. WOLFE, Mr. SOLARZ, Mr. WINN, Mr. STUDDS, Mr. LAGOMARSINO, Mr. GILMAN, Mr. WHALEN, Mr. PEASE, Mr. IRELAND, Mr. CAVANAUGH, Mrs. MEYNER, and Mr. BURKE of Florida

MARCH 31, 1977

Referred to the Committee on International Relations

APRIL 6, 1977

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed